S.B. Civil Writ Petition No.2842/05
Badri Prasad Gautam Vs. State & Ors.

Date of Order : 29/03/2006

Hon'ble Mr. Justice Ajay Rastogi

Mr. Arvind Bhardwaj, for petitioner

The petitioner, who was working as Store Keeper as alleged in the petition, was served with the notice for the financial loss caused to the institution, u/s 74(1) of Rajasthan Co-operative Societies Act, 1965 and thereafter, served with the notice u/s 74(2) of the Act. Against which, the petitioner has submitted explanation and after examining the same, the Court of Regional Audit Officer, Co-operative Societies, Kota vide order Ann.5 held the petitioner guilty and passed the order to make recovery of Rs.75,494.60. Against which, the petitioner preferred appeal before the Joint Registrar, Co-operative and after hearing counsel for parties, the order was passed on 13th November, 1996 and the matter was remanded to examine the same and pass appropriate orders in accordance with law within three months. In compliance thereof, the order was passed by the competent authority vide order dt.26th March, 1998 [Ann.7]. Against which, the petitioner again

preferred appeal before the Additional Registrar, Co-operative which was dismissed. Against which, he preferred revision petition under Section 128, which was partly allowed and while rejecting the order passed by the Additional Registrar [Appeals], the order passed by the Joint Registrar, Co-operative dt.26th March, 1998 was finally maintained. As a consequence whereof, the total amount recoverable was apportioned between the petitioner and Shri Raghuveer Prasad Garg, Salesman, in terms of order of Joint Registrar, Co-operative dt.26th March, 1998. Hence, this petition.

Counsel for petitioner submits that not only the petitioner and Shri Raghuveer Prasad Garg, but other incumbent Shri Bhanwar Lal Sharma was also responsible who was serving as Manager [Vyavasthapak] at the relevant time, but he has been made scot-free by the authority and despite grievance raised, the same has not been considered by either of authority while upholding the recovery to be made from the petitioner and so also from Shri Raghuveer Prasad Garg, (respondent No.6). Counsel further submits that after the matter was remanded back vide order Ann.6, it has been examined by the authority who was not authority competent under the rules, as such the very order passed which

was assailed by him was not legally sustainable.

I have considered the submission made by the counsel and perused the material on record.

This fact has not been disputed by the petitioner that he is also one of the person who was responsible for putting financial loss to the institution. The submission made that Shri Bhanwar Lal Sharma has been made scot-free despite involved in the matter, in my opinion, is without any substance for the reason that authority competent has examined the matter in its entirety and recorded a finding in holding the petitioner and Shri Raghuveer Prasad Garg responsible for putting financial loss.

So far as submission made with regard to decision rendered by the authority at the stage when matter was remanded back, in my opinion, is without any substance. The order which has been questioned by the petitioner, was passed by the authority competent under law. Apart from it, the revisional authority has partly allowed the revision petition and restored the order passed by the Joint Registrar where the amount of financial loss has been apportioned between the petitioner and Shri

Raghuveer Prasad Garg. I find no illegality in the decision taken by the authority, which is duly supported by the material on record.

Consequently, the writ petition fails and is hereby dismissed.

[Ajay Rastogi],J.

FRB